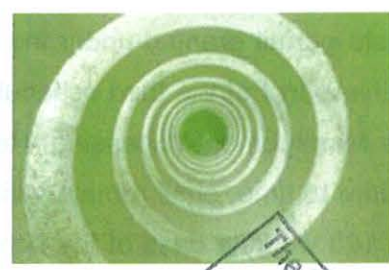


Mr Patrick Geoghean,  
 Senior Inspector,  
 Environmental Licensing Programme,  
 Office of Climate, Licensing & Resource Use  
 Environmental Protection Agency  
 Headquarters, PO Box 3000  
 Johnstown Castle Estate  
 Co. Wexford



**JSPE**

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Date: 8<sup>th</sup> April, 2014  
 Our Ref: JSPE 175\_L06  
 Your Ref: W0264-01

**Re: Notice in accordance with Section 42 (1)(b) of the Waste Management Act 1996-2013 as inserted by SI No. 505 of 2013.**  
**Notice in accordance with Article 14(2) (b)(ii) of the Waste Management (Licensing) Regulations**  
**Waste Licence Application by Sand and Gravel Merchants Ltd for the continued operation of its existing Waste Recovery Facility on lands at Thornberry Townland, Kill, Co. Kildare (National Grid Reference 295986E 221275N).**

Dear Mr Geoghean,

On behalf of Sand and Gravel Merchants Ltd, we have prepared the following response with respect to the following notices issued on 28/02/2014.

1. Notice in accordance with Section 42 (1)(b) of the Waste Management Act 1996-2013 as inserted by SI No. 505 of 2013.
2. Notice in accordance with Article 14(2)(b)(ii) of the Waste Management (Licensing) Regulations.

Our client has indicated that they wish to withdraw the application for a waste licence.

In accordance with Article 9 (1) of the Waste Management (Licensing) Regulations 2004 (S.I. No. 395 of 2004), J Sheils Planning & Environmental Ltd submitted a Waste License Application (Reg. No. W0264-01) to the Environmental Protection Agency, on behalf of Sand and Gravel Merchants Ltd of Thornberry, Kill, Naas, Co Kildare on 13/02/2009.

Article 3. (4) of the Waste Management (Facility Permit and Registration) Regulations 2007 (S.I. 821 of 2007)(as amended by S.I. 86 of 2008) provide for transitional arrangements i.e.

"A waste permit granted under the Regulations revoked in respect of an activity which does not fall within part I of the third schedule and which requires a waste licence in accordance with the Waste Management (Licensing) Regulations 2004 (S.I. No. 395 of 2004), as may be amended from time to time, shall remain valid if an application for a waste licence is made to the Agency within 180 working days of the coming into operation of these Regulations, until such time as a decision is taken to grant or to refuse a waste licence under article 34 of the Waste Management (Licensing) Regulations 2004, as may be amended from time to time, at which point the waste facility permit will lapse.

As it stands the Waste Licence application (Reg. No. W0264-01) is still under consideration by the EPA and as such the Waste Permit (WMP 30/2001B) remains valid until such time as a decision is made by the EPA.

The Waste Licence application has been under consideration by the EPA for over 5 years since it was submitted on 13/02/2009. It is noted that the requirement for submission of an EIS is a result of amendments to Section 40 (2A)(C) of the Waste Management Acts (1996-2013), as inserted by S.I. No. 283/2012 - European Union (Environmental Impact Assessment) (Waste) Regulations 2012.

Similarly recent European Court of Justice case law and changes to legislation including S.I. No. 477/2011 - European Communities (Birds and Natural Habitats) Regulations 2011 has placed a greater duty of care on public authorities including the EPA to ensure that screening for Appropriate Assessment and where necessary Appropriate Assessment, with respect to European Sites is carried out. It is against this background that the EPA has requested the undertaking of screening for Appropriate Assessment with respect to the Waste Licence application.

Article 21(1) of the Waste Management (Licensing) Regulations 2004 to 2010 states "*an application (other than an application in respect of a waste recovery or disposal activity carried on or after the date prescribed for the purposes of section 39(1) of the Act in relation to the said activity/ or a submission referred to in article 15 may be withdrawn at any time before the making of the decision of the Agency on the application.*"

It is our understanding that the application to withdraw the licence will be subject to confirmation from Kildare County Council that the facility has been completed and restored in accordance with the requirements of Waste Permit No. 30/2001B and to the satisfaction of Kildare County Council. For your information we have entered into consultation with Kildare County Council to this effect.


We would expect that the works required to complete the facility in accordance with the waste facility permit will require c.12 months to close out to the satisfaction of Kildare County Council.

It is unfortunate that due to the recent economic crisis that our client is not currently in a position to undertake the preparation of an EIS and screening for Appropriate Assessment to further this application. Given the length of time that the application has been under consideration and the changes in legislation during the intervening period that resulted in additional requirements not envisaged at the date of submission we would ask that the EPA give due consideration to our proposal with respect to withdrawal of the waste licence application as detailed above.

We would be grateful if you could contact us with respect to making arrangements for a meeting with respect to withdrawal of the application.

Yours Sincerely,

For J Sheils Planning & Environmental Ltd,



John Sheils MSCS MRICS

CC: Mr. Liam Dunne, Senior Exec. Officer, Environment Dept., Kildare County Council, Áras Chill Dara, Devoy Park, Naas, Co. Kildare.

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